

**MINUTES
BARBERING AND COSMETOLOGY EXAMINING BOARD
MEETING
MONDAY, DECEMBER 2, 2002**

PRESENT: Barbara Flaherty, Karen Kraus, Doug Klitzkie, Leon Lauer;
Marville Martin, Lee Martinez (arrived 9:48 a.m.) and Denise Svetly

EXCUSED: Bruce Bennett and Laura Jenkins

STAFF PRESENT: Mary Forseth, Bureau Director; Wayne Austin, Legal Counsel;
Gina York, Program Assistant; and other Division of Enforcement
Staff for portions of the meeting

GUESTS: Mary Kiley, NCAW; Mary Kardoskee, NCAW; Joan Karnitz, WCTC;
Ken Moore, DWD-DWS-BAS; Lorraine Botelho, Loraines's Salon &
Martin's School; Jody Gehrke, SCBC; Nicole Moen, SCBC; Rebecca
Kleinschmidt, SCBC; and Mark Schneider, SCBC.

CALL TO ORDER

Barbara Flaherty, Chair called the meeting to order at 9:40 a.m. A quorum of seven members was present. All members who were unable to attend were excused due to inclement weather.

ADOPTION OF AGENDA

MOTION: Leon Lauer moved, seconded by Denise Svetly, to adopt the agenda as written. Motion carried unanimously.

APPROVAL OF MINUTES (10/7/2002)

Amendment to Minutes:

- Change Karen Krause to excused and delete her name and yes vote for closed session.

MOTION: Leon Lauer moved, seconded by Marville Martin, to approve the minutes of 10/7/2002, as amended. Motion carried unanimously.

ADMINISTRATIVE REPORT

BOARD ROSTER

The Board Roster was reviewed by the Board. There was one change. Lee Martinez has a new e-mail address: eliseomarti@yahoo.com

2003 MEETING DATES

The 2003 meeting dates for the Board were reviewed by the Board.

SUMMARY OF REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES

This report is for informational purposes only.

REGULATORY DIGEST

The Board reviewed a draft copy of the Regulatory Digest and discussed articles submitted and updates that should be made regarding members of the board listed in the publication prior to release.

MOTION: Leon Lauer moved, seconded by Karen Kraus, include in the Code of Ethics article it is not stated in the administrative rule but is recommended by the Barber and Cosmetology Examining Board. Motion carried unanimously.

Also, once the Clearinghouse rule 02-058 comes into effect in April 2003 an article will be placed in the Regulatory Digest announcing that new code books are available.

UPDATE ON BUDGET AND SERVICE COMMITTEE

Barbara Flaherty shared information from the last meeting of the Service and Budget Advisory Committee. Mary Forseth shared that Secretary Herrera will include suggestions from the Boards regarding services, credentialing, enforcement, and education programs in the Department's budget proposal. It is a difficult fiscal time for state agencies. The Department attended a task force meeting in October, 2002 and feedback relayed back to the Department of Regulation and Licensing (DRL) was that DRL is efficient and frugal.

ADMINISTRATIVE RULES

STATUS REPORT ON ADMINISTRATIVE RULE

CLEARINGHOUSE 02-058 REVIEW

Pamela Haack reviewed with the Board the changes requested to the rule. The rule will be submitted by January 1, 2003. The effective date will be April 1, 2003. Doug Klitzkie made some technical revisions to the copy of the proposed rules and sent them to Pamela Haack to be included in the rule. Also there was a motion regarding clarification in the rule regarding delegated medical procedures in a licensed establishment. Ms. Haack will ensure these are incorporated into the rule being submitted in January.

MOTION: Denise Svetly moved, seconded by Leon Lauer, to add to BC 2.025 (1) in the first line after “Licensees may provide client services” insert “in a licensed barber cosmetology establishment which constitute medical procedures”.

Motion carried unanimously.

PRACTICE ISSUES

REPORT FROM THE CONTINUING EDUCATION COMMITTEE

MINUTES OF OCTOBER 10, 2002 MEETING

Informational only. The Board has decided to compile and prioritize a list for continuing education topics. The following is the list in priority order:

1. Instructors
2. Establishment Owners
3. Electrologists
4. Nail Technicians
5. Aestheticians
6. Sanitation
7. Managers

REVIEW OUTSTANDING SCOPE OF PRACTICE ADVISORY COMMITTEE RECOMMENDATIONS

The Board reviewed the Scope of Practice List and additional areas which they felt needed to be addressed in the future. Additions to the list were:

- ◆ Checking Sterilization Equipment and Biological Monitoring
- ◆ Smoking Issues
- ◆ Supervision / Assistant training
- ◆ Felony Convictions
- ◆ Foreign Schooled Applicants

ACCEPTABLE METHODS OF STERILIZATION

The Board discussed information submitted regarding the use of an ultra-violet sterilizer. With the information available the Board was unable to determine if the equipment is an FDA approved sterilizer. If the device does not have FDA approval as a sterilizer, and only disinfects, it may not be used.

CLARIFYING MANAGERS PRESENCE ONSITE AND ESTABLISHMENT LICENSE REQUIREMENTS

The Board discussed this issue at length and reviewed what the current Wisconsin Statutes state regarding this issue. It states that direct supervision and supervised training, are required, but it does not mean that the manager has to be on the premises at all times.

MOTION: Denise Svetly moved, seconded by Marville Martin, to prepare a scope statement to amend the administrative rules. Motion carried unanimously.

SPIDER VEINS TREATMENT DEVICE

This was referred to Mary Forseth to respond. Ms. Forseth informed Mr. Mudarri that the Examining Board of Barbering and Cosmetology met and would need additional information about the device, FDA classification, etc. The Board wished to clarify that any device that punctures the skin is considered a medical device. Wi. Stats. 448.01 describes the practice of medicine and specifies that a medical device must be used by, or under the supervision of, a licensed physician.

EXAMINATIONS

Darwin Tichenor addressed the Board regarding the instructors' examination which is being revised and will be in a checklist format. The examination committee will meet in January 2003 and will review the rules regarding the instructor examinations and if any rule changes will be needed. The practitioners' examination is being revised by Ron Rogers from CTS and Mr. Tichenor will keep the Board informed. The Examination Committee will review the final examinations and make any recommendations to the Board.

LEGISLATION

DISCUSSION REGARDING SECTION 454.06 (1)(b) STATS. FELONY CONVICTIONS

This will be addressed and carried over to the Scope Statement List and added as a new item.

BOARD MEMBER ACTIVITY

NIC CONFERENCE

Barb Flaherty, attended the NIC Conference and provided the Board with a packet of information she gathered at the conference and future trends forthcoming in the industry.

PRESENTATION AT FOND DU LAC SCHOOL

Barbara Flaherty shared information with the Board regarding a presentation she gave at the Fond du Lac School.

DIVISION OF ENFORCEMENT – INSPECTION LIAISON

Mr. Barry Wanner appeared before the Board to discuss the appointment of an inspection liaison for the DOE staff to contact. The Board had three members who volunteered as inspection liaisons; Karen Kraus, Doug Klitzkie and Marville Martin.

NEW BUSINESS

IMPROVED COMMUNICATIONS WITH THE PUBLIC

For informational purposes.

BOARD MEMBERSHIP AESTHETICIAN AND NAIL TECH REPRESENTATION

The Board discussed the composition of the current Board and the statutory requirements regarding representation on the Board.

MOTION: Barbara Flaherty moved, seconded by Karen Kraus, to leave the membership as defined under Wi Stats. 15.405(17). Motion carried unanimously.

MOTION: Karen Kraus moved, seconded by Doug Klitzkie, the board recommends for efficiency and direction to the Board they would suggest continuing to work with Mary Forseth, DRL Bureau Director. Motion carried unanimously.

FOREIGN APPLICANT TRANSCRIPTS

At the February 2003 meeting, Judy Mender will provide information on procedures and qualifications for foreign schooled applicants. The Board will be working on a scope statement in the future regarding this topic.

ASSISTED LIVING FACILITY – ESTABLISHMENT LICENSE

The Board referred to Mary Forseth to respond. Meadowmere Assisted Living Apartments does not qualify for an exception under 454.08 (a) as Meadowmere is not a nursing home facility and all residents are not confined and unable to obtain outside services.

PRESENTATION OF PROPOSED STIPULATIONS BY PROSECUTORS OR ANY THAT MAY BE SUBMITTED AFTER PRINTING OF AGENDA

Proposed stipulations were discussed in closed session.

CLOSED SESSION

MOTION: Leon Lauer moved, seconded by Denise Svetly, to convene to closed session to deliberate on cases involving hearings (s. 19.85 (1)(a), Stats.); to consider licensure or discipline (s. 19.85(1)(b), Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.) The motion was approved by a role call vote: Lee Martinez-yes; Leon Lauer-yes; and Denise Svetly-yes. Motion carried unanimously.

Open Session adjourned at 11:20p.m.

The Board deliberated on monitoring reports, proposed stipulations, administrative warnings, case closings, examination issues, request for appeal of denials, applications, reinstatement requests and case status reports.

RECONVENE TO OPEN SESSION

MOTION: Leon Lauer moved, seconded by Marville Martin, to reconvene into open session at 12:18 p.m. Motion carried unanimously.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Leon Lauer moved, seconded by Marville Martin, to accept all decisions and motions made in closed session. Motion carried unanimously.

MONITORING REPORT

There was nothing before the Board at this time.

STIPULATIONS

LIEU KIM LUU (REGAL NAILS)

MOTION: To adopt the Findings of Fact, Conclusions of Law, Order and Stipulation in the matters concerning Lieu Kim Luu d/b/a Regal Nails (West Bend): Case 01BAC057. Motion carried unanimously.

CASE CLOSINGS AND CASE STATUS REPORT

MOTION: To close Case **00 BAC 076** for insufficient evidence.

MOTION: To close Case **00 BAC 069** for insufficient evidence.

MOTION: To close Case **02 BAC 015** for no violation.

MOTION: To close Case **02 BAC 039** for compliance gained.

MOTION: To close Case **02 BAC 078** for prosecutorial discretion.

MOTION: To close Case **02 BAC 086** for no violation.

MOTION: To close Case **02 BAC 082** for compliance gained. Letter to be sent to Regis Corporate office regarding waxing roller equipment.

NEXT MEETING AGENDA ITEMS

- Continuing Education by credential holder and priority order.
- Clearinghouse Rule 02-058 revisions submitted by Jan. 2003 deadline.
- Regulatory Digest – January Issue.
- Examination Committee Review of Finalized CTS Exams
- New Scope of Practice related to 4.03 (2) regarding FDA approved equipment and quarterly biological monitoring.

ADJOURNMENT

MOTION: Marville Martin moved, seconded by Karen Kraus, to adjourn the meeting at 1:42 p.m. Motion carried unanimously.

Next Meeting : February 3, 2003